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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,268	11/04/2003	Shaikh Mehboob Ali		5010

7590 03/07/2005

Ted Masters  
5121 Spicewood Drive  
Charlotte, NC 28227

EXAMINER


CHIN SHUE, ALVIN C

ART UNIT PAPER NUMBER

3634

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	Application No. 10/701,268	Applicant(s) ALI, SHAIKH MEHBOOB	
	Examiner Alvin C. Chin-Shue	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 and 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-17 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed ratios between L1 to L2 and L1 to L4 do not appear to be supported by the disclosure and drawings.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13,14 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Morris. Morris shows a first channel at 20, a second channel at 38, first member (upper 30) and second member (lower 30) and retainer 22.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over E.P. pat. '284 to Ralston in view of Brown. Ralston shows the claimed

extender with the exception of the first member. Brown shows a first member 60 pivotally connecting an extender 32 to facilitate folding. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ralston to comprise a first member pivotally connecting his first channel 34 to his second channel 50, as taught by Brown, to facilitate folding.

Claims 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston and Brown, as applied to claim 13 above, and further in view of Morris. Morris shows a pivot link 30 comprising a pair of arms connected by a bridge, wherein the bridge acts as a stop. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pivot member of Ralston, as taught by Brown, to comprise a pair of arms connected by a bridge, as taught by Morris, to enable the bridge to be used as a stop. Furthermore, to make the relative lengths of the members and channel to comprise a ratio as claimed depending on the angle of the second member with respect to the first channel in an extended position, would have been an obvious engineering expediency.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston, Brown and Morris, as applied to claim 14 above, and further in view of Figliuzzi. Figliuzzi shows an extension 56 for a leg with a plurality of holes 54 and

pin 80. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the second channel of Ralston to comprise an extender, as taught by Figliuzzi, to accommodate uneven surfaces.

Claim 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston, Brown and Morris, as applied to claim 14 above, and further in view of Margolies. Margolies shows in column 3, lines 44,45 teaches a securing means for locking an extender in an extended position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ralston to comprise a securing means, as taught by Margolies, for locking his extender in an extended position. Furthermore, the examiner takes official notice that the use of straps pivotally connected at a first end to a first member and having a means/hook at its other end to engage a projection on a second member for locking both member together is conventional, and to provide Ralston with a conventional strap lock would have been obvious to one of ordinary skill in the art in view of the conventional teaching.

Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, drawn to a method of extending a ladder, classified in class 182, subclass 172.
- II. Claims 13-22, drawn to an extender, classified in class 182, subclass 107.
- III. Claims 23-25, drawn to a ladder, classified in class 182, subclass 165.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used without a lock and securing means.

Inventions III and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be

shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process as claimed can be used on a ladder with only two legs.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with attorney Masters on 2/1/05 a provisional election was made without traverse to prosecute the invention of Group 11, claims 13-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-12 and 23-25 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue  
Examiner  
Art Unit 3634

ACS